

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

ASTENJOHNSON, INC.,

Plaintiff,

v.

COLUMBIA CASUALTY COMPANY *et al.*

Defendants.

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NO. 03-CV-1552

ORDER

AND NOW, this ____ day of July, 2010, upon consideration of the Motion of Defendant Columbia Casualty Company for Leave to file a Reply in Further Support of its Motion for Summary Judgment, it is hereby **ORDERED** that the Motion for Leave is **GRANTED**. It is **FURTHER ORDERED** that the Reply shall be filed on or before August 1, 2010 and shall be no more than fifteen pages in length.

BY THE COURT:

Lawrence F. Stengel, J.

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

ASTENJOHNSON, INC.,

Plaintiff,

v.

COLUMBIA CASUALTY COMPANY *et al.*

Defendants.

NO. 03-CV-1552

**MOTION OF COLUMBIA CASUALTY COMPANY FOR LEAVE TO FILE REPLY
BRIEF IN FURTHER SUPPORT OF ITS MOTION FOR SUMMARY JUDGMENT**

Defendant, Columbia Casualty Company (“Columbia”), by and through its undersigned counsel, respectfully submits this Motion for Leave to File a Reply in Further Support of its Second Motion for Summary Judgment.

1. Under Local Rule of Civil Procedure 7.1(c), the Court may permit additional briefs if appropriate. See Berry v. Rite Aid Corp., No. Civ. A. 00-0049, 2001 WL 527815, at *3 (E.D. Pa. May 16, 2001); Smallberger v. Federal Realty Inv. Trust, No. Civ. A. 98-6098, 1999 WL 126919, at *1 (E.D. Pa. March 8, 1999); see also Robbins Motor Transp., Inc. v. Translink, Inc., 2009 WL 803711, *1 n.3 (E.D. Pa. March 26, 2009) (granting defendants Motion for Leave to File Reply Brief); Bey v. Pennsylvania Department of Corrections, 98 F. Supp. 2d 650, 665 (E.D. Pa. 2000) (same).

2. Columbia moves the Court for leave to file a reply brief so that it may respond to Plaintiff AstenJohnson, Inc.’s (“Asten”) Memorandum of Law in Opposition to Columbia’s Second Motion for Summary Judgment.

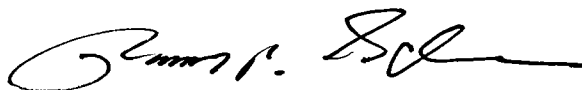
3. In its opposition, Asten raises at least one new argument and makes several other assertions that Columbia wishes to have an opportunity to address. For instance, Asten sets forth

a lengthy discussion on Pennsylvania law on notice and prejudice that discusses cases we believe fail to stand for the proposition for which they were cited and that Columbia has never had an opportunity (and could not have predicted that it would need to) address. Asten also makes a wholly new argument about the scope of the Third Circuit's mandate on remand, contending that the mandate essentially deprives this Court of the power to do anything other than minister to a jury trial. This too has not been argued before, and Columbia requests the opportunity to address the new contention. Moreover, Asten alleges -- for the first time in this lengthy litigation and without any claim for this in the complaint it filed -- that Columbia's litigation conduct, "such as objecting to discovery about drafting history," constitutes bad faith. See Asten's Opposition at 24. We respectfully suggest that Asten's new contentions and discussions, including the ones listed by way of example here, warrant a formal reply from Columbia.

4. So that these issues are properly framed for the Court's decision, Columbia respectfully requests leave to file a reply brief in this matter, limited to fifteen pages, on or before August 1, 2010.

WHEREFORE Defendant Columbia Casualty Company respectfully requests that it be granted leave to file a Reply.

Respectfully Submitted,



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Dated: July 15, 2010

Attorneys for Defendant

Columbia Casualty Company

CERTIFICATE OF SERVICE

I, Ronald P. Schiller, hereby certify that on July 15, 2010, a true and correct copy of Defendant Columbia Casualty Company's foregoing Motion for Leave to File a Reply in Further Support of its Second Motion for Summary Judgment was filed electronically and it is available for viewing and downloading from the ECF system; a true and correct copy of same was served on the following counsel of record by electronic mail:

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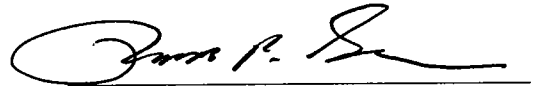
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